

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2004-0102
)	Mandatory Minimum Penalty
)	For
City of Los Angeles)	Violation of California Water Code § 13376
Department of Water and Power)	
Scattergood Generating Station)	And
Los Angeles, California)	Order Nos. 95-029 and 00-083 (NPDES No. CA0000370)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to City of Los Angeles Department of Water and Power (hereinafter Permittee) based on findings of violations of waste discharge requirements prescribed in Order Nos. 95-029 and 00-083 (NPDES No. CA0000370, CI No. 1886).

The Executive Officer (Executive Officer) of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee operates the Scattergood Generating Station (hereinafter facility) located at 12700 Vista Del Mar, Los Angeles. The Permittee can discharge up to 496 million gallons per day (MGD) of wastes consisting of once-through cooling water, pretreated metal cleaning wastes, low volume inplant wastes, cooling tower blowdown, and storm water run-off at the facility (Latitude 33°55'00", Longitude 118°26'02"). The wastewater is susceptible of containing suspended solids (SS), high temperature, copper, total chromium, arsenic, total residual chlorine and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to Santa Monica Bay (Pacific Ocean), a navigable water of the United States.
2. On February 27, 1995, the Regional Board adopted Order No. 95-029, which prescribed waste discharge requirements to the Permittee for the discharge of treated wastes from the facility.
3. On June 29, 2000, the Regional Board adopted Order No. 00-083, which rescinded order No. 95-029 (except for enforcement purposes) and which prescribes waste discharge requirements to the Permittee for the discharge of treated wastes from the facility.
4. Order No. 95-029 (Part I, page 10) included the following effluent limitations for suspended solids.

September 10, 2004

Constituent	Unit of Measure	Discharge Limitations (daily maximum)	Discharge Limitations (30 day average)
Suspended Solids	mg/L	100	30

mg/L = milligrams/liter

5. Order No. 00-083 (Part I, page 9-11) includes the following effluent limitations for suspended solids, high temperature, copper, total chromium, arsenic, and total residual chlorine:

Constituent	Unit of Measure	Discharge Limitations (daily maximum)	Discharge Limitations (monthly average)
Suspended Solids	mg/L	100	30
Temperature	Deg. F	100*	-
Copper	µg/L	109	13
Total Chromium	mg/L	0.2	0.2
Arsenic	µg/L	313	57
Total Residual Chlorine	mg/L	0.436	-

mg/L = milligrams/liter; µg/L = micrograms/liter

*Except during heat treatment

Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.

6. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Board.
7. One (1) violation of Order No. 95-029 and fifty-three (53) violations of Order No. 00-083 were noted in the Permittee's self-monitoring reports during the period April 2000 through February 2004. These violations include effluent limit exceedances for SS, high temperature, copper, chromium, arsenic, and total residual chlorine. The violations are identified in Table 1 attached hereto and incorporated herein by reference.
8. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.
9. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a

waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.

10. A portion of the penalty not to exceed fifteen thousand dollars (\$15,000) plus fifty percent (50%) of the penalty amount that exceeds fifteen thousand dollars (\$15,000) may be directed to be expended on a Supplemental Environmental Project (SEP) pursuant to CWC § 13385(l).
11. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385 for each day of violation is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

12. The Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$144,000 for the violations which occurred from April 2000 through February 2004. Refer to Table 1 for the calculation of the amount of mandatory minimum penalty.
13. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323. The Permittee will be notified of the date, time and location of the hearing. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4th Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on October 13, 2004. If the hearing is waived, the following options are available to satisfy the civil liability:
 - a. A check in the amount of \$144,000 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver; or
 - b. The Permittee may propose to pay up to \$79,500 of the civil liability by contributing to a SEP on the Regional Board approved SEP List at www.swrcb.ca.gov/rwqcb4/html/programs/enforcement.html. To the greatest degree practicable, there must be a nexus demonstrated with the violations cited in this Complaint and the chosen SEP. A description of the SEP selected shall be submitted to the Regional Board for approval by the Executive Officer by the close of business on October 13, 2004.

In the event that the Permittee proposes to invest in a SEP, a check in the amount of \$64,500 (payable to the State Water Resources Control Board Cleanup and Abatement Account) together with the Permittee's written statement confirming that the Permittee contributed to a SEP on the SEP List will be submitted along

with the executed waiver and received by the Regional Board by the close of business on October 13, 2004.

In the event that the Permittee proposes to invest in a SEP, the Permittee shall pay \$79,500 to the chosen SEP on the SEP List by the close of business on, and notify the Regional Board of the date, amount and method of payment by the close of business on October 13, 2004.

14. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements.
15. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
16. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

September 10, 2004

Jonathan Bishop
Executive Officer
Los Angeles Regional Water Quality Control Board

WAIVER OF THE RIGHT TO A HEARING

By signing below and returning this Waiver, I hereby waive the right of the Permittee to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability Complaint No. R4-2004-0102 (Complaint) issued by the Regional Board Executive Officer. The Permittee understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes.

The Permittee elects to pay the civil liability in the following manner [check the relevant boxes]:

- ☐ Enclosed herewith in full payment of the civil liability is a \$144,000 check payable to "State Water Resources Control Board Cleanup and Abatement Account."

Or

- ☐ Enclosed herewith are a \$64,500 check payable to "State Water Resources Control Board Cleanup and Abatement Account" and proof of payment of at least \$79,500 to a Supplemental Environmental Project (SEP) listed on the Regional Board-approved SEP list.

The Permittee understands that this Waiver gives up the rights to argue against the allegations made by the Executive Officer in this Complaint and against imposition of, and the amount of, civil liability imposed. The Permittee also understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment in full will be due thirty days after the date of the adoption of the Order.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Waiver.

City of Los Angeles Department of Water and Power

Date: _____

By: _____
(Signed name)

(Printed or typed name)

Position: _____